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IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

FRESNO DIVISION

FRIENDS OF YOSEMITE VALLEY, et al., Plaintiffs, v. DIRK KEMPTHORNE, in his official capacity as Secretary of the Interior, et al., Defendants.	Case No. CV-F-00-6191 AWI DLB FIFTH DECLARATION OF ALEXANDER R. PETERSON IN SUPPORT OF DEFENDANTS' MOTION FOR STAY PENDING APPEAL DATE: February 26, 2007 TIME: 1:30 p.m. PLACE: Courtroom 2 JUDGE: Hon. Anthony W. Ishii

I, Alexander R. Peterson, declare as follows:

1. I am a California Registered Professional Engineer (Civil) employed by the consulting engineering firm of Kennedy/Jenks Consultants, Engineers and Scientists (Kennedy/Jenks),

where I have worked since 1997. I have a Bachelor of Science Degree in Civil Engineering from California State University, Sacramento obtained in 1985. I am a Senior Engineer and a Principal with the firm. I have been continuously employed as a consulting engineer since June of 1985 and have over 21 years experience in the evaluation, design, and construction of engineered systems for water, wastewater, and other civil infrastructure. I have been responsible for project engineering and project management with Yosemite National Park wastewater projects including providing technical assistance regarding Park compliance planning for the August 2, 2000, Cleanup and Abatement Order (CAO) from the California Regional Water Quality Control Board, for the September 2002 Yosemite Valley Sanitary Sewer System Capital Improvement Plan (CIP), and for the Integrated CIP and the Yosemite Valley Integrated Utility Master Plan (IUMP).

2. In 2002, Kennedy/Jenks prepared an integrated CIP and IUMP that presented an ecologically preferred and cost effective means to complete the rehabilitation of the sewer system required by the CAO. One of the goals of the IUMP was to remove deteriorated utilities from waterways, meadows, and riparian areas and relocate them in consolidated utility corridors under existing roadways. Portions of for the sewer system not in sensitive resource areas would be repaired in accordant with the CIP. Sections of the sewer system needing repair were classified based on two driving factors: 1) the severity of the system defect and 2) professional opinion as to the probability that failure to correct the defect(s) could result in a sanitary sewer overflow. The highest risk rankings were "emergency" and "immediate."

3. To date, the emergency and immediate category repairs that the NPS was allowed to undertake are those included in "Option 1," which the Court approved in October 2004. (My declaration of August 31, 2004 provides additional detail about the work entailed in Option 1.) The work involved in Option 1 is nearly complete. Several elements remain to be done and these are indicated in Exhibit A. In my professional opinion, these remaining elements still pose a serious potential health and environmental risk. The serious potential health and environmental risks of exposure to raw sewage are discussed in my previous declarations.

4. Option 1 did not include all of the repairs in the "emergency" and "immediate"

categories. As discussed below, there remain 40 pipe segments that have repairs falling into the emergency and immediate categories. In the paragraphs that follow, I explain the severity of the sewer system conditions that still exist and that would be rectified if the NPS is able to implement the remaining Option 1 work in conjunction with Phases 2 and 3 of the IUMP. (The Declaration of Jeffrey Harsha provides additional detail regarding the utility system realignments that the IUMP made to the CIP in an effort to minimize construction work in sensitive resource areas.)

5. As it stands now, 40 segments of sewer pipeline containing emergency or immediate condition defects still require repair. (A segment is a portion of pipe measured from manhole to manhole.) Sixteen of these segments are located in highly sensitive resource areas. These are indicated in Exhibit A as being located in meadows, riparian areas, or waterways. Of the repairs that remain to be done, twelve (12) have been classified as "emergency" and twenty-eight (28) are "immediate" repairs. The "emergency" ranked locations have been monitored by the NPS in an effort to mitigate the risk of spills. However, if NPS is prevented from addressing these deficiencies for months or even years, the likelihood of spills increases dramatically.

6. These 40 segments are included in the remaining portion of CIP and the IUMP Phases 2 and 3 and are listed in Exhibit A.[1] This table documents which of the remaining sewer pipeline segments rated as "emergency" and "immediate" are currently located in waterways, riparian areas and meadows. Additionally, Exhibit A provides a statement of each segment's deficiency and recommended repair. Deficiencies include specific condition-related repairs resulting from structural damage or flow volume deficiencies resulting from a combination of pipe diameter and slope that do not meet current engineering standards. Exhibit B is a map that identifies the location of the lines in Exhibit A. The purple lines are the emergency and immediate repairs that have been completed to date. The remaining lines with the CIP designation "emergency" repair are indicated in red, and the remaining "immediate" repairs are indicated in yellow.

7. It is important to note that delay of the CIP Phase 2 and IUMP Phases 2 and 3 work

[1] Phases 2 and 3 of the IUMP also contain additional sections of pipe in the intermediate and long-term categories. These defects would also be addressed if Phase 2 and 3 work is allowed to proceed.

would increase the likelihood of system failure at any of the 40 locations, resulting in sewer spills, emergency cleanup, and repairs within sensitive habitats. If such a failure were to occur, the NPS would have to undertake work which would necessitate digging up and repairing lines in meadows, wetlands, and riparian habitats.

8. Phases 2 and 3 of the IUMP were specifically designed to avoid construction or repairs in sensitive areas .The IUMP Phase 2 and 3 projects are discussed below:

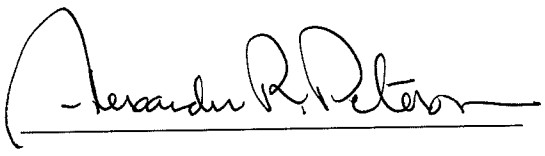
- The West Yosemite Village Corridor Project is a segment of sewer main that runs from the school to just north of Ranger Y. (This segment of the sewer main is located in Area 5 on Exhibit Band begins at approximately C52 and ends at approximately D2.) This project would eliminate 11 of the remaining 40 segments in the CIP identified as having deficient conditions.
- Phase 2 of the IUMP includes a wastewater pump station and pumped pipeline through the Lower Pines Campground to the new Curry Village Lift Station. (This section of the system is located in Areas 2 and 7on Exhibit B and runs from approximately P3 to F13.) This project would eliminate the need for five (5) segment repairs, of which one (1) is a river crossing.
- The Ahwahnee Corridor Project is a segment of line that goes from the Ahwahnee Hotel to the newly constructed Tecoya Housing line. (This section of the system is located in Area 3 on Exhibit B and runs from approximately N22, through N212 and ends at approximately G2.) This project, in conjunction with the closing of North Pines Campground, would eliminate twelve (12) segment repairs all of which are in meadows or waterways. By also doing a small segment of line that connects the lower end of the Tecoya Housing line to the Yosemite Village Lift Station (Phase 3, Camp 6 area), four (4) more segments would be eliminated, three (3) of which are also in meadows. A total of thirty-two (32) segments would be addressed by the above IUMP projects. It is important to understand that by completing this work in accordance with the IUMP, rather than the in-place repairs called for by the CIP, one river crossing would be avoided as would 16 segment repairs in meadows or waterways. Eight (8) would proceed in

accordance with the CIP recommendations because they are not within a meadow or in the river and are not effected by the IUMP Phases 2 and 3 (These eight projects are numbers 12,13,14,15, 21, 22, 29 and 40 on Exhibit A).

9. In summary, should the NPS be allowed to complete the next phases of sewer system repairs in accord with the IUMP, all remaining emergency and immediate repair segments would be completed in a manner that causes far less disruption to meadow and riparian areas along the Merced River.

10. Continued delay of repairs as a result of the current injunction would greatly increase the likelihood of system failure, allowing already compromised segments of sewer line to further deteriorate. The projects identified in Exhibit A and shown in Exhibit B were originally identified as needing to be completed by 2004 for those rated "emergency" and 2005 for those rated "immediate" projects. These dates were based on an opinion as to risk of occurrence of a sewer spill. These estimates were incorporated into the NPS's response to the CAO as demonstration that the Park was proceeding to remedy condition and flow volume deficiencies that were contributing to recurring sewer spills. If the NPS were allowed to proceed with repairs, the earliest completion schedule for the remaining 40 segments would be fall of 2008. If an injunction were to remain in place for an additional 18 months, this would result in a late 2009 completion date, fully 3 to 4 years after the 2004 and 2005 completion dates provided to the Regional Water Quality Control Board for emergency and immediate repairs respectively. The risk of sewer system spills and overflows will increase dramatically if the NPS is prevented from undertaking these repairs for that period of time.

I declare under penalty of perjury that the foregoing is true and correct. Executed on January 24, 2007, at Sacramento, California.



Alexander R. Peterson

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Fifth Declaration of Alexander R. Peterson

Exhibit A

Exhibit A - Remaining Sewerline Segments with Emergency and Immediate Condition Deficiencies Followings CIP 1A, CIP 1B and IUMP Phase 1

Reference Number	Segment Description			Number of Segments	Recommended Repair for Condition Deficiency	Within Meadow, Riparian Area, or Waterway?	IUMP Projects to Resolve Deficiency
	Line	MH	MH				
1	C	C1	C2	1	Spot Repair	No	Phase 3 (West Yosemite Village Corridor)
2	C	C2	C3	1	Spot Repair	No	Phase 3 (West Yosemite Village Corridor)
3	C	C3	C4	1	Spot Repair	No	Phase 3 (West Yosemite Village Corridor)
4	C	C6	C7	1	Spot Repair	No	Phase 3 (West Yosemite Village Corridor)
5	C	C7	C7A	1	Spot Repair	No	Phase 3 (West Yosemite Village Corridor)
6	C	C7A	C8	1	Spot Repair	No	Phase 3 (West Yosemite Village Corridor)
7	C	N3	C1	1	Cured-in-Place Pipe	No	Phase 3 (West Yosemite Village Corridor)
8	C	C52	SCHOOL	1	Replace Pipe	No	Phase 3 (West Yosemite Village Corridor)
9	D	C6	D2	1	Spot Repair	No	Phase 3 (West Yosemite Village Corridor)
10	D	D2	D3	1	Spot Repair	No	Phase 3 (West Yosemite Village Corridor)
11	D	D3	D3A	1	Spot Repair	No	Phase 3 (West Yosemite Village Corridor)
12	D	D37	LAMPHOLE	1	Replace Pipe	No	
13	D	D5	D6	1	Spot Repair	No	
14	F	F131	F132	1	3 Spot Repairs	No	
15	F	F133	F134	1	Protruding Tap	No	
16	F	F13	F14	1	Enforce Grease Mgmt.	No	Phase 2 (Lower Pines Lift Station to Curry Village Lift Station)
17	F	F14	F15	1	Enforce Grease Mgmt.	No	Phase 2 (Lower Pines Lift Station to Curry Village Lift Station)
18	F	F18	F19	1	Capacity Increase	No	Phase 2 (Lower Pines Lift Station to Curry Village Lift Station)
19	F	F19	F20	1	Capacity Increase	No	Phase 2 (Lower Pines Lift Station to Curry Village Lift Station)
20	J	J1	J2	1	Capacity Increase	No	Phase 3 (Camp 6)
21	J	J2	J3	1	Enforce Grease Mgmt.	Yes	
22	J	J4	J5	1	Enforce Grease Mgmt.	No	
23	N	N4	N5	1	Cured-in-Place Pipe	Yes	Phase 3 (Camp 6, Ahwahnee Corridor UMP, Close or reroute NPLS)
24	N	N8	N9	1	Cured-in-Place Pipe	Yes	Phase 3 (Camp 6, Ahwahnee Corridor UMP, Close or reroute NPLS)
25	N	N9	N10	1	Cured-in-Place Pipe	Yes	Phase 3 (Camp 6, Ahwahnee Corridor UMP, Close or reroute NPLS)
26	N	N15	N16	1	Line Pipe	Yes	Phase 3 (Ahwahnee Corridor, Close or reroute NPLS)
27	N	N16	N17	1	Capacity Increase	Yes	Phase 3 (Ahwahnee Corridor, Close or reroute NPLS)
28	N	N19	N20	1	Capacity Increase	Yes	Phase 3 (Ahwahnee Corridor, Close or reroute NPLS)
29	N	N20	N21	1	Capacity Increase	Yes	Phase 3 (Ahwahnee Corridor, Close or reroute NPLS)
30	N	N21	N22	1	Capacity Increase	Yes	Phase 3 (Ahwahnee Corridor, Close or reroute NPLS)
31	N	N212	N21	1	Replace Pipe	Yes	Phase 3 (Ahwahnee Corridor, Close or reroute NPLS)
32	N	N22	N23	1	Capacity Increase	Yes, (Waterway)	Phase 3 (Ahwahnee Corridor, Close or reroute NPLS)
33	N	N23	N24	1	Capacity Increase	Yes	Phase 3 (Ahwahnee Corridor, Close or reroute NPLS)
34	N	N24	N25	1	Capacity Increase	Yes, (Waterway)	Phase 3 (Ahwahnee Corridor, Close or reroute NPLS)
35	N	N25	N26	1	Capacity Increase	Yes	Phase 3 (Ahwahnee Corridor, Close or reroute NPLS)
36	N	N26	N27	1	Spot Repair	Yes	Phase 3 (Ahwahnee Corridor, Close or reroute NPLS)
37	N	N27	NPLS	1	Capacity Increase	Yes, (Waterway)	Phase 3 (Ahwahnee Corridor, Close or reroute NPLS)
38	P	P1	NPLS	1	Replace Pipe	Yes, (Waterway)	Phase 3 (Close or reroute NPLS)
39	P	P4	CS	1	Line Pipe	No	
40	P	P5	P5A	1	Line Pipe	No	
			TOTAL	40			

Spot Repair = Localized repair generally less than 15 feet in length
Cured-in-Place Pipe (CIPP) = Resin saturated fabric liner hardened in place through a heat curing process typically installed from manhole to manhole
Replace Pipe = Removal and replacement of existing pipeline using open trench construction typically from manhole to manhole
Protruding Tap = Service line lateral connection that extends to within the main line sewer resulting in a possible obstruction to flow and maintenance equipment
Capacity Increase = Installation of relief sewer or increase in diameter/slope to reduce existing peak demand depth of flow and potential overflow
Line Pipe = Installation of lining material typically sufficient to be a structural repair
Enforce Grease Mgmt.= Condition that requires additional and frequent maintenance

Case No. CV-F-00-6191 AWI DLB

Fifth Declaration of Alexander R. Peterson

Exhibit B